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A Legal Analysis of Criminal Offenses in Employment Affecting Other Persons Within the Workplace, Viewed in Light of Act No. 1 of 1970 regarding Work Safety

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A B S T R A C T

The increasing incidence of occupational accidents in Indonesia underscores the crucial importance of Occupational Safety and Health (OSH) as well as the suboptimal enforcement of corporate criminal liability for OSH violations. This normative juridical research analyzes the application of corporate criminal law, corporate accountability factors, and aspects of protection for workers as well as 'any other persons'. The findings indicate that suboptimal legal implementation stems from low corporate awareness and ineffective sanctions within the Occupational Safety Law, thereby leading to enforcement inconsistencies. Although corporate accountability factors are identified, establishing such liability proves complex. This study recommends the reform of the OSH Law to strengthen sanctions and clarify legal subjects; the mandatory implementation of comprehensive OSH standards by corporations; and stricter government oversight.

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INTRODUCTION

Occupational Safety and Health (OSH) aspects play a fundamental role in labor governance, with a significant impact not only on individual worker protection but also on national productivity and the overall welfare of society. Statistical data indicate a conspicuous increase in the incidence of occupational accidents in Indonesia. By the end of 2022, 6,552 work-related fatalities were recorded, representing a 5.7% increase from 2020 (Nareswari, 2024). This fact underscores the urgent need for OSH to be made a primary priority. In this situation, corporations, as business entities that contribute significantly to economic development and labor absorption, also risk committing violations predicated on economic motives (Ismaidar, I., Zarzani, T. R., & Habeahan, D. 2024). Such violations necessitate a specific legal approach, as stipulated in the Supreme Court of the Republic of Indonesia Regulation Number 13 of 2016 (hereinafter PERMA No. 13/2016), which recognizes the dual nature of such corporations.

A corporation can be deemed a legal subject capable of committing criminal acts due to its capacity to act in violation of the law (Zarzani, T. R., Ismaidar, I., & Fahriza, W. 2024). According to Prof. Mardjono Reksodiputro, corporate crime is classified as white-collar crime (Reksodiputro, 1989, p. 9). Criminal liability can be imposed upon corporations based on prevailing legal provisions. Ron Kramer defines corporate crime as unlawful acts and/or actions detrimental to society, consciously committed by company management for corporate benefit. Conversely, labor law serves to regulate legal relations between parties in the world of work (Kristian, 2016, p. 116). Given the significant role of corporations, law enforcement efforts against corporate criminal acts often conflict with economic interests. As for a criminal act or offense (delict) itself, as explained by Hanafi Amrani, it constitutes an act prohibited by criminal law norms (Amrani, 2019, p. 109). The manifestations of corporate crime are highly varied, encompassing economic, socio-cultural, and public interest sectors. This includes, according to Joseph F. Sheley's view cited by Mardjono Reksodiputro, actions such as fraud against shareholders, the public, and the government, as well as acts that threaten public and worker safety (Reksodiputro, 1994, pp. 67-68).

In the context of corporate criminal law, Article 3 of Supreme Court Regulation Number 13 of 2016 defines a corporate criminal offense as an act committed by a person based on an employment relationship or other relations, acting for and on behalf of the corporation. This act may constitute an illegal deed for corporate profit, or negligence in preventing criminal acts, thereby causing detriment to various parties such as workers, consumers, the state, and the environment. Furthermore, corporate crime can also arise from the neglect of Occupational Safety and Health (OSH) protection obligations. The fulfillment of OSH is crucial for worker welfare, and is also a constitutional mandate and a directive of Act Number 13 of 2003 concerning Manpower (Ramadani, S. 2018), as the primary objective of OSH is to maintain health and safety in the workplace (Nashuha, 2023).

From a historical perspective, the initial traces of safety and health efforts in the work environment can indeed be traced back to past civilizations. However, these practices were not yet encapsulated in structured normative rules but were rather more akin to ad hoc policies. Even during the Industrial Revolution in Europe, a comprehensive legal framework to protect workers had not yet been established, resulting in exploitative working conditions (Nashuha, 2023). In Indonesia, the primary legal basis for OSH implementation is Act Number 1 of 1970 concerning Occupational Safety (hereinafter Act No. 1/1970), which came into force on January 12, 1970. The essence of this Act is to provide comprehensive protection for workers and other individuals in the work area, and to ensure the safe and efficient utilization of production resources. This Act also mandates the systematic implementation of OSH functions, which, despite facing historical implementation challenges, its urgency is increasingly pronounced (Rambing et al., n.d., p. 2).

Masitah Pohan and Rahma Yanti (2020) state that the government has a fundamental responsibility to ensure protection for the workforce through various regulations that must be implemented by corporations. In this regard, the fulfillment of workers' rights to guaranteed services, including social security programs for employment, becomes a vital aspect whose scope can extend to the protection of communities surrounding the company's operational sites (Maimun, 2004, p. 86; Marbun, R. J., Rahmayanti, R., & Faisal, M. R. 2024). However, it is recognized that there is still a paucity of comprehensive legal studies concerning the scope and implementation of corporate responsibility towards "any other persons present in the workplace" who experience occupational accidents. This aspect requires further analysis based on Act Number 1 of 1970 concerning Occupational Safety.

THEORETICAL REVIEW

Theory of Criminal Liability

According to Packer (1968, p. 17), the rational basis of criminal law rests on three main pillars: the criminal act itself, the concept of fault, and the mechanism of punishment. These three pillars reflect crucial issues concerning which acts should be categorized as crimes, what criteria must be met to establish that a person is guilty of committing a criminal act, and what sanctions should be imposed upon the perpetrator. These concepts form the initial basis for analyzing criminal liability that can be imposed on corporations, particularly concerning negligence in fulfilling obligations as regulated in Article 74 of Act Number 40 of 2007 concerning Limited Liability Companies. Therefore, the scope of discussion will involve criminal acts, mechanisms of corporate criminal liability, as well as criminal dimensions and its sentencing process. Furthermore, to establish the existence of fault that can lead to a criminal act, several essential elements must be proven. These elements include the capacity for responsibility, the presence of intent (dolus) or negligence (culpa), and the absence of any justifying or excusing grounds (Prokoso, 1982, p. 140).

Theory of Labor Protection

The concept of labor protection, as formulated by Abdul Hakim, has the primary objective of ensuring the creation of balanced and harmonious employment relations. This means that no party dominates or pressures the party in a more vulnerable position, such that this protection becomes a fundamental guarantee for worker prosperity (Subkhi, 2012, p. 36). Furthermore, Soepomo categorizes worker protection into three main dimensions: first, economic protection, which includes the certainty of adequate income for workers and their families, including when workers are unable to work (in the form of social security); second, social protection, which focuses on collective efforts to enable workers to improve their quality of life as individuals and as part of the community (through occupational health); and third, technical protection, which centers on preventive measures to protect workers from the risk of accidents caused by work equipment or materials used (through occupational safety) (Agusmidah, 2010, p. 61). Based on the foregoing, the fulfillment of fundamental protection aspects for workers, particularly concerning appropriate wages and guarantees of safety and health in the work environment, constitutes an inherent responsibility of corporations as employers. This obligation is in line with the direction of national manpower development and demands tangible manifestation through statutory regulations to guarantee the essential rights of workers.

METHODOLOGY

This research adopts a normative juridical method, also known as doctrinal legal research, which focuses on library research and secondary data analysis. The fundamental principle of this method is the precise formulation of the research problem and the selection of appropriate methodological steps to construct theory. The nature of this research is descriptive analytical, which aims to systematically describe applicable legal regulations and their implementation, in order to address the research questions that are the subject of the author's study.

Data collection is conducted through library research on secondary data sources, which consist of primary legal materials such as statutory regulations (e.g., the 1945 Constitution, the Criminal Code, the Manpower Law, the Occupational Safety Law), secondary legal materials in the form of literature, journals, and internet sources, as well as tertiary legal materials such as legal dictionaries. Data analysis is conducted qualitatively by referring to norms, theories, principles, doctrines, articles (of law), and court decisions. The data are analyzed logically and systematically to explain the relationships between various types of data and to solve problems descriptively.

RESULTS AND DISCUSSION

The Application of Corporate Criminal Law and Legislation Concerning the Suboptimal Implementation of OSH Protection for Workers/Labourers

Act Number 1 of 1970 concerning Occupational Safety (hereinafter referred to as the Occupational Safety Act) fundamentally mandates protection for "any other persons present in the workplace." Nevertheless, jurisprudential

findings that explicitly position said group of individuals as primary victims with corporate entities as principal defendants under the provisions of the aforementioned Act remain limited in number. An analysis of the Kisaran District Court Decision Number 107/Pid.C/2021/PN Kis, wherein an employer's negligence in inspecting transport equipment resulted in a fatal outcome for a laborer and was proven to violate Article 3a and Article 4 paragraphs 1 and 2 of the Occupational Safety Act, only resulted in a probationary criminal sanction (Faisal et al., 2024, p. 10), indicating that the criminal sanction system within the Occupational Safety Act tends to be lenient. Furthermore, a corporation's failure to fulfill fundamental administrative obligations in the field of Occupational Safety and Health (OSH), such as the establishment of an Occupational Safety and Health Supervisory Committee (P2K3), has also been proven to result in the imposition of criminal penalties on the company based on Supreme Court decisions, which may indicate systemic negligence within the corporation (Supreme Court of the Republic of Indonesia, n.d.).

A manifested tendency in law enforcement practice concerning the handling of fatal occupational accident cases is the application of Article 359 of the Criminal Code (KUHP) regarding negligence causing death. This is empirically evident in the Soasio District Court Decision Number 25/Pid.B/2020/PN Sos, which held an individual worker as the legally responsible subject (Nareswari, 2024). This preference for using the Criminal Code is based on the perception that the criminal sanctions stipulated in the Occupational Safety Act are deemed too lenient, thus, the application of the Criminal Code is viewed as a pragmatic strategy by law enforcement officials to achieve a more significant deterrent effect on offenders (Faisal et al., 2024, p. 10; Ramadani, S., Danil, E., Sabri, F., & Zurnetti, A. 2021). Nevertheless, holding individuals liable on the basis of such negligence could potentially serve as an entry point to investigate and prove corporate criminal liability, if it can be legally proven that such individual negligence is rooted in inadequate corporate systems, policies, or supervision (Zarzani, T. R., & Barus, J. N. B. 2024).

Further analysis of the Kisaran District Court Decision Number 107/Pid.C/2021/PN.Kis confirms a significant disparity in sanctions between the Occupational Safety Act and Article 359 of the Criminal Code, which in turn raises questions regarding the effectiveness of the Occupational Safety Act as a robust instrument of criminal law enforcement, particularly in handling fatal occupational accident cases (Faisal et al., 2024, p. 10). Similarly, the Soasio District Court Decision Number 25/Pid.B/2020/PN Sos underscores the reliance of law enforcement officials on the Criminal Code in handling serious OSH cases (Nareswari, 2024). This normative and implementative gap indicates the urgency of revising the sanction system within the Occupational Safety Act to make it more relevant to the development of corporate criminal offenses and capable of providing a proportional deterrent effect, as well as the need to enhance awareness and understanding among law enforcement officials and the public regarding the broad scope of protection afforded by said Act, including

protection for non-workers, to encourage more serious corporate compliance with OSH norms.

The effectiveness of occupational safety implementation is a *sine qua non* condition for ensuring comprehensive labor protection (Nurhayati, S. 2009). Failure in implementing an effective OSH system can potentially lead to accidents that not only cause direct losses in the form of injury or death to the workforce but also indirect losses, including to corporate assets and the company's operational continuity. Conceptually, occupational safety is defined as a scientific discipline and its integrated application that encompasses the management of machinery, equipment, materials, processes, work foundations and environments, and work methods, all of which aim to take preventive measures against accidents to protect the workforce and company assets from all forms of loss (Apriliani et al., 2022, p. 5).

The tendency of corporations to disregard obligations related to Occupational Safety and Health (OSH), which can lead to workplace incidents, is often seen as a reflection of a state of "zero responsibility." In such situations, corporate entities may potentially evade or absolve themselves of criminal consequences for violations of OSH protection for their workers. However, the national legal order has established various imperative obligations for every corporation. This is as stipulated in Article 5 of Government Regulation Number 50 of 2012 concerning the Implementation of the Occupational Safety and Health Management System (SMK3). This regulation specifically requires companies employing a minimum of 100 people, or those whose operations have a high potential hazard level, to implement SMK3. Furthermore, the Occupational Safety Act explicitly demands that companies protect worker safety. This is done by providing complete information regarding conditions and hazards in the work environment, explaining all types of safety measures and protective equipment that must be used, ensuring the availability of personal protective equipment for the workforce, and implementing safe work methods and attitudes.

Regulations related to worker protection in the OSH context also refer to a number of international legal instruments. Among these are the International Labour Organization (ILO) Convention Number 187 of 2006 concerning the Promotional Framework for Occupational Safety and Health, and ILO Convention Number 120 concerning Hygiene in Commerce and Offices. Generally, these various instruments are designed with the aim of minimizing, or even eliminating altogether, the potential for accidents and diseases arising from work. The protection aspect within OSH itself has a very extensive scope, which, according to Apriliani et al. (2022, p. 7), includes the workforce of various types and skill levels, equipment and materials used in production activities, various physical and non-physical work environment factors, the production process itself, and even the specific characteristics and nature of the work performed. In the effort to implement OSH in Indonesia, the government has issued a series of legislative products, such as the Occupational Safety Act, Act Number 13 of 2003 concerning Manpower (Nurhayati, S., & Sumarno. 2021), and Government Regulation Number 50 of 2012 concerning the Implementation of

SMK3. All these regulations, as stated by Soekanto (2013, p. 23), function as references or conduct norms in the industrial societal order.

Based on an analysis of the urgency of OSH implementation by corporations, data showing an increase in occupational accident cases in Indonesia indicate deficiencies in the implementation of the Occupational Safety Act and Government Regulation Number 50 of 2012. These deficiencies are caused by weaknesses found both in the technical regulatory aspects of OSH implementation and in its law enforcement system. A significant fundamental weakness identified lies in the criminal sanction provisions as stipulated in Article 15 paragraph 2 of the Occupational Safety Act, which only prescribes a maximum imprisonment of three months or a maximum fine of IDR 100,000 (one hundred thousand rupiah). Such sanctions are deemed to lack an adequate deterrent effect on corporations. By comparison, other jurisdictions such as Malaysia through its Occupational Safety and Health (Amendment) Act (OSHA) 2022 and the United States through its Occupational Safety and Health Act (OSHA) of 1970 impose financial sanctions of significantly higher magnitude, more substantial imprisonment threats, and extend the scope of criminal liability to individuals within the corporate management structure. Therefore, to enhance corporate compliance and the effectiveness of OSH protection, it is imperative to reform the sanction system within national OSH legislation to be more proportional and capable of providing a strong deterrent effect against violations committed by corporations.

Factors Determining Corporate Criminal Liability for Employment-Related Offenses Affecting Other Persons

The application of corporate criminal liability in Occupational Safety and Health (OSH) cases fundamentally rests on established theoretical frameworks, including Identification Theory, Strict Liability Theory, and Vicarious Liability Theory. Determinant factors in attributing fault to a corporation include, first, the involvement of a "directing mind," namely, acts or omissions by management or individuals with strategic decision-making authority whose actions can be legally attributed to the corporate entity (Muladi, 2013). Second, the existence of corporate policies or culture that implicitly or explicitly demonstrate a disregard for OSH standards or prioritize financial profit over worker safety (Muladi, 2013). Third, the criminal act is proven to have provided an unlawful benefit to the corporation (Girsang et al., 2024). Fourth, the presence of systemic negligence manifested in the failure to implement an effective OSH management system (SMK3), deficiencies in training programs, inadequate provision of Personal Protective Equipment (PPE), and weak internal oversight mechanisms (Nareswari, 2024).

Proving corporate criminal liability, particularly in OSH cases rooted in negligence, presents inherent complexities that demand a comprehensive investigation into the corporation's internal structure, decision-making mechanisms, and prevailing organizational culture, extending beyond mere analysis of individual actions (Muladi, 2013). Law enforcement authorities bear the burden of proof to demonstrate that negligence in OSH implementation is

not an isolated incident but rather a reflection of systemic failure or corporate policy that consciously or unconsciously leads to violations. This paradigm shift in law enforcement towards corporate accountability inherently requires an enhancement of human resource capacity within law enforcement agencies, including investigators, prosecutors, and judges, in understanding and applying theories of corporate crime, as well as the ability to conduct more sophisticated and in-depth investigations into internal corporate practices.

Fundamental issues in the discipline of criminal law center on three main pillars: the criminal act (*strafbaar feit*), criminal liability (*strafrechtelijke aansprakelijkheid*), and punishment (*straf*), wherein the concept of criminal liability, as articulated by S.R. Sianturi, essentially aims to determine whether a person or other legal subject can be held accountable for a criminal act they have committed (Sianturi, 1996, p. 245). Although the concept of criminal liability is not explicitly formulated in the prevailing Criminal Code (KUHP), it is a crucial doctrine in the Indonesian criminal law system that has been the subject of extensive theoretical study. This aligns with Van Hamel's view that criminal capacity (*toerekeningsvatbaarheid*) is a state of psychic normality and individual maturity that includes the ability to understand the value and consequences of one's actions, to realize that one's actions are not permitted according to societal views, and the capability to determine one's will regarding such actions (Andrisman, 2009, p. 97).

The term *toerekenbaarheid* refers to the process of determining the perpetrator's accountability, wherein a person can be punished if their actions have fulfilled the elements of an offense as defined by law, are unlawful without any justifying grounds or negation of unlawfulness, and are committed by a subject who possesses criminal capacity and can be held accountable for their actions (Sofyan and Azisa, 2016, p. 124).

In the realm of criminal law, the principle of legality (*nullum delictum nulla poena sine praevia lege poenali*) serves as the primary basis for designating an act as a criminal offense, while the element of fault (*schuld*) forms the basis for the punishability of the perpetrator of said offense (Huda, 2006, p. 34), which in turn leads to the concept of criminal liability as a juridical response to the violation of legal norms. Theoretically, there are two main views regarding the relationship between a criminal event and criminal liability: monistic and dualistic views. The monistic school, which is closely related to the *finale Handlungslehre* doctrine (Saleh, 1985, p. 13), views an offense as an integral and inseparable unity between an unlawful act punishable by criminal sanction and the element of fault in a perpetrator who has criminal capacity, wherein the fulfillment of both aspects requires specific criteria (Hamzah, 1994, pp. 88-89). Conversely, the dualistic school fundamentally separates the prohibited act or criminal offense (*actus reus*) from criminal liability or the element of fault (*mens rea*) (Saleh, 1985, p. 13), such that the existence of a criminal offense and the perpetrator's fault are assessed separately. The implication of this dualistic view is that not every individual who commits a criminal offense can automatically be punished (Moeljatno, 1993, p. 54), a perspective adopted by several prominent Indonesian criminal law experts such as Moelyatno, Roeslan Saleh, and A.Z. Abidin. This conception of liability

becomes highly relevant in the analysis of crimes committed by corporations, where the occurrence of harm is a primary trigger for criminal liability.

The mechanism of criminal liability imposed on corporations stems from unlawful acts carried out by or for the benefit of the corporation that cause harm. The basis for this punishment refers to various theories concerning the determination of fault and models of liability that allow corporations as legal entities, as well as their managers individually or collectively, to be held accountable. The urgent need to enforce criminal liability against corporations becomes increasingly apparent given that the resulting harm is often massive and cuts across various sectors. Such harm can include financial aspects, public health, threats to human life, and disruptions to the social and moral order of society.

Although the status of corporations as entities subject to criminal sanctions has been legally recognized in Indonesia since the enactment of Emergency Act Number 7 of 1955 concerning the Investigation, Prosecution, and Trial of Economic Crimes—and this recognition was subsequently expanded through various sectoral regulations—the effectiveness of its enforcement has often been historically impeded. The main obstacle was the absence of a formal procedural law specifically detailing the examination procedures for corporations suspected of committing criminal acts. This procedural gap was eventually filled with the issuance of Supreme Court Regulation Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations. This regulation provides fundamental guidance for law enforcement officials in processing criminal cases involving corporations. Furthermore, this regulation also formulates criteria for assessing corporate fault, one of which includes negligence in taking appropriate preventive measures and in ensuring compliance with statutory regulations to prevent the occurrence of criminal acts.

Law enforcement against criminal offenses in the context of Occupational Safety and Health (OSH) protection that are unlawful and committed without any justifying grounds requires the cumulative fulfillment of the elements of criminal liability. These elements include, first, the criminal capacity (*toerekeningsvatbaarheid*) of the legal subject, wherein the subject is capable of understanding the intent and purpose of their actions, recognizing the unlawfulness of their actions according to societal views, and is capable of freely determining their will. Second, the presence of culpability or fault in the form of intent (*dolus*) or negligence (*culpa*) (Sudarto, 1990/1991, p. 32), and the absence of excusing grounds that could eliminate criminal liability for the involved perpetrators or corporate management. However, the effectiveness of punishing corporations, particularly through the application of financial sanctions, is often deemed suboptimal in achieving a deterrent effect. Whereas, the purpose of punishment, as described by Karl O. Christiansen, should not be merely retributive or vengeful, but must also include preventive and prospective dimensions as a means to achieve social welfare, with a primary focus on efforts to change corporate behavior towards better legal compliance and strengthening internal prevention mechanisms against potential deviations in its business activities (Christiansen, 1974, p. 75).

Given that corporations play a dual role in the socio-economic order, namely as engines of economic growth and simultaneously as entities with the potential to cause significant negative impacts, the state has a fundamental responsibility to implement fair policies and strict regulations. These policies and regulations must include guarantees of OSH protection not only for workers but also for 'any other persons present in the workplace' as expressly mandated in Act Number 1 of 1970 concerning Occupational Safety, the interpretation of which can be extended to include communities surrounding the corporation's operational areas. This comprehensive protection is crucial considering that the impacts of corporate operations can be highly detrimental and widespread, including environmental pollution, large-scale industrial accidents resulting in fatalities, and significant economic losses, as reflected in the Sidoarjo mudflow case which caused the state to disburse IDR 11.27 Trillion in bailout funds to mitigate its impacts (Kompas.com, 2021). Therefore, it is imperative for the government to conduct in-depth studies and subsequently enact specific statutory regulations that bind corporations more comprehensively, to ensure the availability of solid and adequate legal references for resolving cases involving corporations and enforcing accountability for losses inflicted upon the wider community.

Employment-Related Criminal Offenses Against Any Other Persons Present in the Workplace Under Act No. 1 of 1970 concerning Occupational Safety

Enhancing the quality of human resources in Indonesia has become imperative in line with the rapid advancements in science, technology, and the dynamics of market demands. In this context, the workforce plays a crucial role in national development, not only as a subject but also as the ultimate objective of development itself. The implementation of this development is based on the values of Pancasila and the mandate of the 1945 Constitution of the Republic of Indonesia, which aims to uphold human dignity and realize a prosperous societal order (Masriani, 2009, p. 140). Therefore, workers as agents of development need continuous empowerment. This can be achieved through comprehensive manpower planning and programs, including training activities, apprenticeship programs, and job placement services. These efforts are aimed at honing capabilities, enhancing skills, and improving the quality of the workforce so that they possess optimal competitiveness in the global arena (Tetehuka, 2019, p. 61).

In its development, labor law in Indonesia, although not yet possessing a universally agreed-upon definition, is generally understood as a collection of rules governing the legal relations between workers (and their unions), employers (and their organizations), and the government. This also encompasses the processes and decisions that bring these relations into being (Prinst, 1994, p. 1). Contrary to the common perception that often categorizes labor law solely as part of private law, its substance also encompasses public law aspects. These aspects involve state administrative law and criminal law, thereby creating space for state intervention in its implementation. Consequently, the implementation of criminal law policy becomes important and necessary to address criminal issues arising in the field of employment (Santoso, 2012, p. 131).

Essentially, occupational health efforts are aimed at protecting workers to achieve maximum productivity. This is done through various measures such as prevention, hazard risk control, health promotion, treatment, and rehabilitation. Its primary objectives are to provide protection to workers from various health risks, improve their health status, guarantee the health of other individuals around the work area, and ensure that production resources are utilized safely and efficiently (R. Joni Bambang S., 2013, p. 289). Occupational accidents, defined by Notoatmodjo (2007, p. 362) as unexpected and undesired incidents related to employment relations within a company, can arise from various factors. Husni (2010, p. 152) categorizes these factors into human factors, material or equipment factors, and hazard sources, both in the form of hazardous acts and conditions. Article 14 letter c of Act No. 1 of 1970 concerning Occupational Safety expressly mandates employers to implement occupational safety measures. This obligation includes conducting training, providing free of charge all personal protective equipment (PPE) required for the workforce and anyone entering the work area, complete with instructions for its use.

In terms of criminal liability resulting from failure to implement Occupational Safety and Health protection, corporations are deemed to have the capacity to be held responsible, and thus can be found guilty and sentenced. The basis for this liability is the theory of functional perpetration (*functioneel daderschap*) or identification theory, which states that a corporation operates through its management. The implication is that corporations possess the capacity for legal accountability (Malau, 2020, p. 44). Furthermore, Act Number 1 of 1970 also mandates safety guarantees for "any other persons" present at the work site. However, the details and scope of protection for this category of "other persons" have not yet been clearly and comprehensively formulated. Yet, this aspect is crucial for protecting parties such as visitors, contractors, and particularly communities around industrial areas from the potential adverse impacts of company operations. Therefore, this requires serious attention and more specific formulation of protection by the government.

Industrial operational activities in many regions have the potential to cause significant disaster risks. An example is the H2S gas leak incident from PT. SMGP (Sorik Marapi Geothermal Power) on January 25, 2021, in Madina Regency. This event caused fatalities and injuries among the surrounding community, not affecting the company's internal workers. The resolution of similar cases through amicable out-of-court settlements is often considered insufficient in reflecting true justice for the affected community victims. Therefore, law enforcement through judicial processes is deemed crucial to ensure the attainment of genuine justice for the public.

Regarding the punishment of corporations, Supreme Court Regulation (PERMA) Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations has regulated the types of sanctions. Article 25 specifically states that the principal criminal sanction for corporations is a fine, while additional criminal sanctions can be applied in accordance with applicable statutory regulations. Article 28 of this PERMA further details the procedure for fine payment by corporations, namely within one month from the date the

judgment becomes legally binding, with a possible maximum extension of one more month. If the fine is not paid, the prosecutor is authorized to confiscate and auction the corporation's assets, although there are no definitive rules if the auction proceeds are insufficient to cover the fine. On the other hand, the mechanism of criminal liability for corporate management has fundamental differences, although the deadline for payment of imposed fines, as regulated in Article 29 of the Corporate PERMA, is similar to that imposed on corporations, i.e., one month from the date the judgment becomes legally binding and can be extended by one month. The main difference lies in the consequence of the inability or refusal of corporate management to pay the fine: they can be subject to imprisonment in lieu of the fine, calculated proportionally and served after the principal punishment is completed. This sanction of imprisonment in lieu naturally cannot be applied to a corporation as an entity.

The effectiveness of sanctions in Occupational Safety and Health (OSH) law enforcement, particularly those contained in Act Number 1 of 1970—with its threats of imprisonment and fines whose values are no longer commensurate with current conditions—has drawn criticism. This indicates an urgent need to reform said Act to provide a more significant deterrent effect. The basis for a corporation's capacity to be held liable for criminal acts is the theory of functional perpetration (*functioneel daderschap*) or identification theory, wherein the corporation acts through its management. Consequently, fines can be directly imposed on the corporation, while imprisonment can be imposed on its management. Therefore, the formulation of new, more detailed and comprehensive regulations regarding corporate punishment for various types of criminal offenses is required.

CONCLUSIONS AND RECOMMENDATIONS

Based on the foregoing analysis, it is found that the implementation of corporate criminal law concerning violations of the obligation to protect Occupational Safety and Health (OSH) for the workforce has not yet reached an optimal level. This condition is triggered by a low level of awareness among corporations, which results in widespread cases of violations against statutory regulations and failures in applying OSH standards, which in turn leads to the occurrence of occupational accidents. Several significant factors in determining a corporation's criminal liability for employment-related criminal offenses affecting "any other persons" include: the corporation's position as a perpetrator subject of the crime, the involvement of management, individuals who give orders, parties who have control over operations, beneficial owners of the corporation, and the existence of potential conflicts of interest between the corporation and its workers. Furthermore, referring to the provisions of Article 14 letter c of Act Number 1 of 1970 concerning Occupational Safety, company management has an obligation to provide personal protective equipment (PPE) free of charge to workers and to "any other person" entering the work area. Thus, the corporation bears legal responsibility to provide protection to said "any other persons" and can potentially be found guilty and subjected to criminal sanctions if a criminal offense occurs.

To optimize the effectiveness of the OSH protection system and its law enforcement efforts, it is recommended that every corporate entity mandatorily implement comprehensive OSH protection standards for all workers within its operational scope. In addition, there is an urgent need to conduct a comprehensive review of the Occupational Safety Act. The main focus of this evaluation is to provide clarity regarding the legal subjects who can be held criminally liable in the event of a violation or criminal offense related to OSH. To the government, it is also recommended to organize oversight activities that are conducted in a tiered, periodic manner, and with strict standards regarding OSH implementation at the corporate level. This measure aims to prevent occupational accident incidents and to ensure corporate compliance with all relevant statutory regulations.

FURTHER STUDY

Comprehensive further study becomes imperative to address the suboptimal implementation of corporate criminal law concerning violations of Occupational Safety and Health (OSH) obligations, a condition rooted in deficient corporate awareness and the failure to effectively apply OSH standards. The focus of such further studies should include an in-depth juridical analysis of the determinant factors in attributing corporate criminal liability, particularly those impacting 'any other persons' as mandated by Article 14 letter c of Act Number 1 of 1970, including an exploration of the interpretation and limitations of their protection. Furthermore, research urgency is also directed towards the development of comprehensive and adaptive OSH protection standard models for every business entity, a critical evaluation of existing OSH legislation to clarify the parameters of legal subjects who can be held criminally liable, and the formulation and effectiveness evaluation of tiered, routine, and stringent government oversight models to ensure regulatory compliance and the systemic and sustainable prevention of work incidents.

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